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BEFORE THE FEDERAL ELECTION COMMISSION

2016 SEP -2 AM 8:31

ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 6854

Complaint Receipt Date: July 18, 2014

Response Date(s): August 18, 2014
August 21, 2014

Respondents: Steve Cohen for Congress, and
Henry Turley, as treasurer
(collectively the "Committee")

CELA

EPS Rating:

Alleged Statutory/ 52 U.S.C. §§ 30120(a)(1), (d)(1)(A)
Regulatory Violations: 11 C.F.R. §§ 110.11(b)(1), (c)(3)(i)

The Complaint alleges that Steve Cohen for Congress, the authorized committee of Congressman Steve Cohen, violated the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations by airing a radio advertisement with a disclaimer stating that the candidate had approved its contents, but the candidate later stated publicly that he had not approved the advertisement in the form it was broadcast.¹ After the advertisement aired, the candidate informed news outlets that he had authorized the script of the ad, but had not approved the final audio version of the ad, despite the disclaimer saying otherwise. The Act requires that radio communications by candidates contain a disclaimer including, among other things, a spoken statement that identifies the candidate and states that the candidate approved the communication. The disclaimer here was technically compliant, because at the time the Committee created and distributed the ad, it included a spoken statement that the candidate approved the communication, despite the candidate's subsequent statement that he disapproved how the ad was recorded. The Committee admits that it distributed the ad to radio stations, but the Committee and the candidate both state that the Committee attempted to pull the advertisement from all radio stations after the

¹ According to the complaint, the content of the ad was read in a voice that some listeners considered objectionable.


candidate decided that the final product did not meet his approval, but some stations had already aired it.

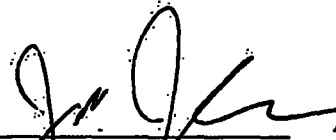
Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the other circumstances presented, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.


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9.1.16
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